

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

DAVID HAUFF,

Plaintiff,

vs.

MORGAN PETTERSON and
SAFECO INSURANCE COMPANY
OF AMERICA,

Defendants.

No. 1:09-cv-00639 PJK-DJS

ORDER

THIS MATTER comes on for consideration of Plaintiff's Rule 54 Motion for Entry of Final Judgment in Favor of Morgan Petterson and Safeco as to All Bad Faith Claims filed September 7, 2010. Doc. 84. Plaintiff argues that Rule 54(b) certification is warranted because (1) all claims against Defendant Petterson have been resolved, (2) the remaining contract claims running against Defendant Safeco are separate and distinct from the various bad faith claims, and (3) certification will facilitate settlement and probably will avoid a trial. Doc. 85 at 4-5. See Stockman's Water Co., LLC v. Vaca Partners, L.P., 425 F.3d 1263, 1265 (10th Cir. 2005) (requiring a court to consider finality and "no just reason for delay" prerequisites of Rule 54(b) before certifying). The court exercises its

discretion in accordance with Curtis-Wright Corp. v. Gen. Elec. Co., 446 U.S. 1, 7-8 (1980). Courts are understandably reluctant to certify insurance disputes when unresolved issues (e.g. bad faith or indemnity) could generate successive appeals. See Old Republic Ins. Co. v. Durango Air Serv., Inc., 283 F.3d 1222, 1225 (10th Cir. 2002); Horn v. Transcon Lines, Inc., 898 F.2d 589, 592-93 (7th Cir. 1990); United States v. Merchants Mut. Ins. Co., 2007 WL 2363134, at *2 (D.N.J. 2007). That is the case here.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED and DECREED that Plaintiff's Rule 54 Motion for Entry of Final Judgment in Favor of Morgan Petterson and Safeco as to All Bad Faith Claims filed September 7, 2010 is denied.

DATED this 13th day of September 2010, at Santa Fe, New Mexico.



United States Circuit Judge
Sitting by Designation